

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY RG D.C.

05 SEP -7 PM 5:24

THOMAS M. GOULD  
CLERK U.S. DISTRICT COURT  
WD OF TN, MEMPHIS

MEMPHIS PUBLISHING COMPANY,

Plaintiff,

v.

No. 04-2620 B

NEWSPAPER GUILD OF MEMPHIS,  
LOCAL 33091 TNG-CWA,

Defendant.

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ORDER OVERRULING OBJECTIONS OF THE PLAINTIFF AND  
AFFIRMING THE ORDER OF THE MAGISTRATE JUDGE GRANTING  
DEFENDANT'S MOTION TO STRIKE PORTIONS OF PLAINTIFF'S  
AMENDED COMPLAINT

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On June 30, 2005, the Defendant, Newspaper Guild of Memphis, Local 33091 (the "Guild"), moved to strike portions of the amended complaint of the Plaintiff, Memphis Publishing Company ("MPC"). The motion was referred to the magistrate judge, who on August 11, 2005 entered an order granting the motion. The Plaintiff has filed timely objections, which, along with the Defendant's response thereto, are currently before the undersigned.

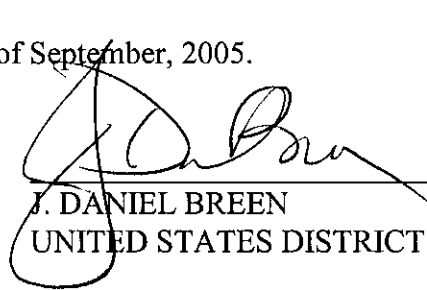
In May 2005, MPC sought to amend its complaint to include a grievance submitted on March 1, 2005 to the American Arbitration Association for arbitration relative to the reduction in force of certain employees represented by the Guild. One week later, the Guild filed three separate demands for arbitration on different matters, without supplementing its motion to include the new claims. On June 22, 2005, the magistrate judge granted the motion to amend and, on June 27, 2005, MPC filed its amended complaint which included not only the March 1 grievance but also the three additional later-filed grievances. In his order, Magistrate Judge Tu Pham ruled that, by adding claims to the

94

complaint without Court approval and denying the opposing party the opportunity to be heard, MPC exceeded the scope of his June 22 order. Accordingly, the motion of the Defendant to strike those portions of the amended complaint was granted.

In its objections, the Plaintiff does not in fact dispute its failure to amend or supplement its motion to encompass the additional claims. Rule 15 of the Federal Rules of Civil Procedure clearly requires that "a party may amend the party's pleading *only by leave of the court.*" Fed. R. Civ. P. 15(a) (emphasis added). As the claims which were the subject of the motion to strike were made without leave of the court, the decision of the magistrate judge to strike those allegations from the amended complaint was not clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a). Thus, the Plaintiff's objections are OVERRULED and the magistrate judge's order is AFFIRMED.

IT IS SO ORDERED this 7<sup>th</sup> day of September, 2005.

  
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J. DANIEL BREEN  
UNITED STATES DISTRICT JUDGE



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Honorable J. Breen  
US DISTRICT COURT